

CORRECTED

**In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS**

No. 19-402V

Filed: July 31, 2020

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JOHN GOLD, *on behalf of the*
Estate of NORMA ANN GOLD,

Petitioner,

v.

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

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Daniel Pfeifer, Esq., Pfeifer, Morgan & Stesiak, Sound Bend, IN, for petitioner.
Colleen Hartley, Esq., U.S. Department of Justice, Washington, DC, for respondent.

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* No. 19-402V
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* Special Master Sanders
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* Ruling on Entitlement; Influenza
* (“Flu”) Vaccine; Guillain-Barré
* Syndrome (“GBS”); Death.
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RULING ON ENTITLEMENT¹

Sanders, Special Master:

On March 15, 2019, John Gold (“Petitioner”), on behalf of the Estate of Norma Ann Gold, filed a petition for compensation under the National Vaccine Injury Compensation Program (“the Program”)² alleging that Ms. Gold received the influenza (“flu”) vaccination on December 2, 2010, and thereafter suffered from Guillain-Barré Syndrome (“GBS”) and other injuries leading to her death. *See* Petition at 1, ECF No. 1.

¹ Although this Ruling has been formally designated “unpublished,” it will nevertheless be posted on the Court of Federal Claims’s website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2006)). **This means the Ruling will be available to anyone with access to the internet.** However, the parties may object to the Ruling’s inclusion of certain kinds of confidential information. Specifically, under Vaccine Rule 18(b), each party has fourteen days within which to request redaction “of any information furnished by that party: (1) that is a trade secret or commercial or financial in substance and is privileged or confidential; or (2) that includes medical files or similar files, the disclosure of which would constitute a clearly unwarranted invasion of privacy.” Vaccine Rule 18(b). Otherwise, the whole Ruling will be available to the public. *Id.*

² The Program comprises Part 2 of the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. §§ 300aa-10 *et seq.* (hereinafter “Vaccine Act” or “the Act”). Hereafter, individual section references will be to 42 U.S.C. § 300aa of the Act.

On January 8, 2020, Respondent filed a report pursuant to Vaccine Rule 4(c) stating that “in the absence of a substantive medical review by the [Division of Injury Compensation Programs] DICP and a recommendation regarding compensation – respondent’s current position is that petitioner is not entitled to an award under the Act.” Resp’t’s Rpt. at 6, ECF No. 17. Respondent indicated he would supplement his report as soon as medical personnel at DICP reviewed the case. *Id.*

On April 27, 2020, Respondent filed his amended report pursuant to Vaccine Rule 4(c) stating that Petitioner’s claim was appropriate for compensation. Am. Resp’t’s Rpt. at 1, ECF No. 18. Specifically, Respondent agrees with Petitioner’s claim that Ms. Gold suffered from the Table injury of Guillain-Barré Syndrome and subsequent death following her receipt of the influenza vaccine. *Id.* Based on a review of the medical records, Respondent found that “the timing of the onset of Ms. Gold’s symptoms occurred within 3 to 42 days, and that Ms. Gold’s records show that the sequela of her injury resulted in her death on March 15, 2011.” *Id.* at 5. Therefore, Petitioner has satisfied all legal prerequisites for compensation under the Act. *Id.*

A special master may determine whether a petitioner is entitled to compensation based upon the record. A hearing is not required. §300aa-13; Vaccine Rule 8(d). In light of Respondent’s concession and a review of the record, the I find that Petitioner is entitled to compensation. This matter shall now proceed to the damages phase.

Any questions regarding this order may be directed to my law clerk, Alyssa Murphy, at Alyssa_murphy@cfc.uscourts.gov

IT IS SO ORDERED.

s/Herbrina D. Sanders

Herbrina D. Sanders
Special Master